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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING**

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.) No. 10-CR-329
)
Miguel Angel Ordaz,)
)
Defendant.)

**DEFENDANT ORDAZ'S MOTION IN LIMINE TO EXCLUDE PHOTOS OF MIGUEL
ORDAZ HANDLING FIREARMS, MOVIE POSTERS AND BULLDOG POSTERS
FOUND IN THE HOME OF MIGUEL ORDAZ, AND PHOTOS OF FIREARMS FOUND
IN THE HOME OF MIGUEL ORDAZ**

COMES NOW, Defendant, **Miguel Angel Ordaz**, by and through his counsel, Peter J. Timbers of Schwartz, Bon, Walker & Studer, LLC, and hereby moves the Court to prohibit the United States of America from presenting both photos and photos of photos of Miguel Ordaz with firearms, posters and photos of posters of movies and bulldog posters and photos of firearms found in the home of Defendant Miguel Ordaz (see Attached Photos).

1. Photographic evidence and photos of photographs depicting Defendant Miguel Ordaz holding/handling firearms should be excluded from the jury.

Such evidence is prohibited under Federal Rule 401. Relevant evidence means evidence having any tendency to make the existence of any fact that is of

consequence to the determination of the action more probable or less probable that it would be without the evidence. Defendant Ordaz submits that such items, without showing methamphetamine or any other illegal drug merely show a non-felon handling a firearm, not possession of a firearm in furtherance of a drug distribution crime. As such, such photos and photos of photos will only serve to confuse the jury, prejudice the jury and do not go to the ultimate issue of possession of firearm(s) in furtherance of drug distribution crime.

Such evidence is a violation of Federal Rule 403 because its probative value is substantially outweighed by the danger of unfair prejudice or misleading the jury. Additionally, such evidence is cumulative in light of the Government's production of the actual firearm during the trial.

2. Posters and photos of posters of movies and bulldog posters from Defendant Defendant Miguel Ordaz's home should be excluded from the jury.

Such evidence is prohibited under Federal Rule 401. Relevant evidence means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable that it would be without the evidence. Defendant Ordaz submits that such posters and photos of posters have nothing to do with the alleged criminal activity for which he is accused.

Such evidence is a violation of Federal Rule 403 if its probative value is substantially outweighed by the danger of unfair prejudice or misleading the jury. His artwork is not criminal, does not depict him engaged in criminal activity, and such posters and/or photos of posters will only serve to confuse the jury, prejudice the jury

and do not go to the ultimate issue of whether or not defendant Ordaz engaged in criminal activity.

3. Photographic evidence of weapons found in the home of Defendant Miguel Ordaz should be excluded from the jury.

Such evidence is a violation of Federal Rule 403 because its probative value is substantially outweighed by the danger of unfair prejudice. Additionally, such evidence is cumulative in light of the Government's production of the actual firearm during the trial.

WHEREFORE, Defendant **Miguel Angel Ordaz** respectfully requests this Court issue an order prohibiting the United States of America and/or its counsel from presenting to the jury either the photos of Defendant Ordaz with weapons and/or photos of weapons found at his home and/or movie posters or Bulldog posters or photos of the same.

DATED this 10th day of October, 2011.

/s/Peter J. Timbers
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Attorney for Defendant

CERTIFICATE OF SERVICE

I, Peter J. Timbers, certify that a true and correct copy of the foregoing document, *DEFENDANT ORDAZ'S MOTION IN LIMINE TO EXCLUDE PHOTOS OF MIGUEL ORDAZ HANDLING FIREARMS, MOVIE POSTERS AND BULLDOG POSTERS FOUND IN THE HOME OF MIGUEL ORDAZ, AND PHOTOS OF FIREARMS FOUND IN THE HOME OF MIGUEL ORDAZ*, was served upon the United States Attorney and the parties involved in this matter by CM/ECF electronic mail notification, this 10th day of October, 2011:

/s/Peter J. Timbers